IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI

WEDNESDAY, THE 6TH DECEMBER 2006 / 15TH AGRAHAYANA 1928

Crl.Rev.Pet.No.1019 of 1998(C)

CRL.A.NO.179 OF 1996 OF THE COURT OF THE II ADDITIONAL SESSIONS JUDGE, KOZHIKODE.

C.C.NO.1164 OF 1993 OF THE COURT OF THE JUDICIAL MAGISTRATE OF THE I CLASS, VADAKARA.

REVISION PETITIONER/APPELLANT/ACCUSED:-

VINOD KUMAR, SON OF DASAN, AGED 34 YEARS,
RESIDING AT KEEZHALATHUPARAMBA, P.O.PERUVAYAL,
PERUVAYAL AMSOM AND DESOM OF KOZHIKODE.

BY ADV. SRI.P.K.RAMKUMAR

RESPONDENT/RESPONDENT/COMPLAINANT:-

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.RAVINDRA BABU.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.K.Bali,C.J.

Crl.R.P.No.1019 of 1998-C

Dated, this the 6th day of December, 2006

ORDER

V.K.Bali, C.J. (Oral)

The petitioner has been held guilty for offences under Sections 279 and 337 of Indian Penal Code and sentenced to undergo simple imprisonment for three months on both counts. The sentences were ordered to run concurrently, as would be clear from the order dated 25th June, 1996 passed by the learned Judicial Magistrate of the First Class, Vadakara. In appeal, the sentence has been modified and reduced. Whereas, the petitioner has been sentenced to undergo simple imprisonment for one month and to pay a fine of Rs.500/- under Section 279, he has been sentenced to pay a fine of Rs.500/- under Section 337, as would be clear from the order dated 30th October, 1998 passed by the II Additional Sessions Judge, Kozhikode. It is against these two orders that the present revision has been filed.

2. Without joining issues on the merits of the case, the learned counsel for the petitioner contends that the accident pertains to the year 1993 and in the manner aforesaid, the petitioner has suffered a protracted trial spanned over a period of

more than 13 years and, therefore, the petitioner may not be sent to serve a jail term at this stage.

3. This Court finds considerable merit in the contention of the learned counsel as made above and is of the view that interest of justice would be served if the petitioner, instead of serving a jail term, be asked to pay fine. Accordingly, while maintaining the order of conviction, the order of sentence is set aside. The petitioner is directed to pay a total fine of Rs.5,000/- (Rupees five thousand only) within two months which, if realised, would be made over to injured persons, viz., Sri.Rajeesh (P.W.1), Smt.Dhananjana (P.W.2), Smt.Ganga (P.W.3), Sri.Sreekumar (P.W.5) and Smt.Dakshayani (P.W.9), in equal share. If, however, the fine is not paid, the petitioner would serve the sentence imposed by the II Additional Sessions Judge, Kozhikode.

With the modification as made above to the orders passed by the Courts below, the present revision is disposed of.

V.K.Bali
Chief Justice

vku/-